SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. NO. (S) 280 /2007

PETITIONER

Manoj Kumar Dixit, aged about 28 years, S/o. Late Shri Vijay Kumar Dixit, R/o. Village Churra, Tehsil Gariabandh, District Raipur (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through Secretary, Department of Forest D.K.S. Bhavan, Mantralaya, Raipur (C.G.)

2. Chief Conservator of Forest, Raipur, District Raipur (C.G.)

3. District Forest Officer, Raipur (East) District Raipur (C.G.)

P.R. No. 186/07
Presented on 6/11/07
Dated

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS, PROHIBITION, CERTIORARI ETC. OR ANY OTHER DIRECTION OR ORDER TO DO JUSTICE IN THE MATTER

(32)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.280 OF 2007

Petitioner : Manoj Kumar Dixit

versus

Respondents : State of Chhattisgarh and others

Present : Mr. Sunil Otwani, counsel for the petitioner.
Mrs. Anju Ahuja, Deputy Government Advocate for the State/respondents.

ORDER

(Passed on 19th Day of January, 2007)

The father of the petitioner, namely, Shri Vijay Kumar Dixit died while working as Ranger in the Department of Forest, at Raipur, in harness on 29-3-1987.

2. After the death of the father of the petitioner, elder brother of the petitioner, namely, Shri Manish Kumar Dixit, moved an application for compassionate appointment, but he died prior to a decision on his application.

3. Thereafter, on the application of the petitioner for compassionate appointment, by a letter dated 7-8-1998 (Annexure P-2), the case of the petitioner was recommended for giving

compassionate appointment. Later on, by another letter dated 25-5-1999 (Annexure P-3), the petitioner was informed that vacant posts are not available in Raipur Circle, and his case would be considered on availability of vacant post. Finally, by letters dated 22-3-2006 and 24-4-2006 (Annexure P-6), the petitioner was informed that in the light of the memorandum of the State Government dated 2-2-2006, the petitioner is not entitled to get compassionate appointment. Thus, this petition.

4. I have heard learned counsel appearing for the parties and perused the petition and the records appended thereto.

5. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

6. The Supreme Court, in ***State of J & K and others*** vs. ***Sajad Ahmed Mir***[1], after having considered all the aspects of compassionate appointment, observed as under :-

> "11. ..... it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public

sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

7. In the present case, the father of the petitioner died in March, 1987. Thereafter, the family sustained itself financially from other sources of income and after a period of about 19 years, appointment on compassionate basis would defeat the purpose of appointment as it would not be rehabilitation of the family in distress but granting back door entry in the employment.

8. There is no merit in this petition. The petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 5 SCC 766

Gopal